

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 26, 2008

2008 NOV 26 A 10:41

APPLICATION OF

THE POTOMAC EDISON COMPANY
D/B/A ALLEGHENY POWER

CASE NO. PUE-2008-00033

For an increase in its electric rates pursuant
to Va. Code §§ 56-249.6 and 56-582
and, alternatively, request to modify
Memorandum of Understanding and Order
in Case No. PUE-2000-00280

ORDER

On April 30, 2008, The Potomac Edison Company d/b/a/ Allegheny Power ("Allegheny," "AP," "Potomac Edison," or "Company") filed an application with the State Corporation Commission ("Commission") in which it seeks to increase its Virginia retail electric rates ("Application"). Specifically, the Application seeks the Commission's approval of the Company's proposed Levelized Purchased Power Factor ("LPPF") for the period July 1, 2008, through June 30, 2009.

The Application proposed three alternative methods for calculating the Company's Factor. Under one method producing a Factor of \$0.02351 per kWh, the Company's recovery of purchased power costs during the period July 1 through December 31, 2008, would be based upon the methodology approved by the Commission in its December 20, 2007 Final Order in Case No. PUE-2007-00085 ("December Order"); recovery for the period January 1 through June 30, 2009, would reflect the Company's actual projected purchased power costs during that six-month period.

On May 15, 2008, the Commission issued an Order for Notice and Hearing ("May 15 Order") that, among other things: (1) established a procedural schedule for this case;

(2) scheduled a public hearing for October 21, 2008, to receive comments from members of the public and evidence on the Application; (3) required the Company to provide notice of its Application; (4) directed the filing of legal memoranda and scheduled oral argument thereon for July 3, 2008;¹ and (5) permitted the Company to recover an interim LPPF, subject to refund, of \$0.02351 per kWh effective for service rendered on and after July 1, 2008, which represents an annual net revenue increase of approximately \$63.4 million.

The following parties filed notices of participation on or before June 12, 2008: Fifteen (15) local businesses working in coordination with the Frederick County Industrial Development Authority ("Consumers");² System Local No. 102, Utility Workers Union of America, AFL-CIO; and the Office of the Attorney General's Division of Consumer Counsel ("Attorney General").³ The following filed legal memoranda as directed by the Commission's orders in this proceeding: Allegheny; Consumers; Attorney General; and Staff. The Commission held oral argument as scheduled on July 3, 2008, at which Allegheny, Consumers, the Attorney General and Staff were represented by counsel and offered argument on the questions noted in the May 15 Order.

The Commission issued an Order on July 18, 2008 ("July 18 Order"), resolving preliminary legal issues. The Commission concluded that, among other things, under amendments enacted in 2007 to the Virginia Electric Utility Restructuring Act ("Act"), the Company's obligation to provide default service statutorily terminates on December 31, 2008.

Accordingly, the Commission found, as a matter of law, that both "capped rates" and "default

¹ On June 13, 2008, in response to a motion filed by Allegheny, the Commission issued an Order giving Allegheny additional time to file its responsive legal memorandum.

² The Consumers, collectively and individually, are as follows: Berryville Graphics, Inc.; Dupont; H.P. Hood, Inc.; Monoflo International, Inc.; New World Pasta; O'Sullivan Films, Inc.; Pactiv; Quebecor World; R.R. Donnelley; Rubbermaid Commercial Products; Southeastern Container Corporation; The Shockey Companies, Inc.; Toray Plastics (America), Inc.; Trex Company; and Valley Health Systems.

³ The Commission also received over 20 written and electronic comments opposing the Application.

service" have been abolished by statute, and are null, void and no longer in effect, after December 31, 2008. Accordingly, the continuing ratemaking provisions contained in an agreement⁴ proposed by Allegheny and adopted by the Commission in an earlier proceeding⁵ wherein Potomac Edison divested its generation plants - and which expressly apply to default service - expire on December 31, 2008, with the expiration of default service.

Our July 18 Order also posed additional questions the Commission desired the participants to address in subsequent filings. We further directed the Company to file certain information relevant to our evaluation of its strategy for meeting its ongoing power supply obligations to its jurisdictional customers in the Commonwealth. The Company filed a number of documents in response to this directive.

On July 28, 2008, Allegheny filed a Motion to Amend and Supplement Application. In the Motion, the Company requested permission to amend and supplement its application to include the under-recovery of the Company's purchased power costs for the period of July 1, 2007 – December 19, 2007 utilizing the methodology approved in the December Order.

On August 1, 2008, the Attorney General filed a Motion to Extend the Procedural Schedule. Also on August 1, 2008, the Company filed the supplemental testimonies of Company witnesses Robert B. Reeping and Mark A. Joensen, which detail the Company's specific plans for meeting its projected load obligations in its Virginia territory, in accordance with the Commission's July 18, 2008 Order.

On August 6, 2008, the Commission issued an Order on Motions. The Order granted Allegheny's Motion to Amend and Supplement its Application and granted the Attorney

⁴ The Memorandum of Understanding or "MOU."

⁵ *Application of The Potomac Edison Co. d/b/a Allegheny Power*, Order Approving Phase I Transfers, Case No. PUE-2000-00280, 2000 SCC Ann. Rept. 530 (July 11, 2000) ("*July 11, 2000 Order*").

General's Motion to Extend the Procedural Schedule. The Order rescheduled the filing of respondent, Staff, and Company rebuttal testimony, and rescheduled the hearing to November 18, 2008.

On October 9, 2008, the Staff and Allegheny filed a Joint Motion to Extend Filing Dates, requesting an extension of one week for the filing of Staff's testimony and Allegheny's rebuttal testimony, citing ongoing negotiations. The Commission issued an Order Granting Joint Motion to Extend Filing Dates on October 10, 2008, extending the date for the filing of Staff's testimony to October 21, 2008, and Allegheny's rebuttal testimony to November 11, 2008. Prefiled testimony was submitted by the Attorney General and Staff and the Company filed rebuttal.

On October 21, 2008, the Commission convened a hearing for the sole purpose of receiving testimony from any public witnesses. No public witnesses appeared.

The public hearing in this matter re-convened on November 18, 2008, at which time the participants - Potomac Edison, the Attorney General, and Staff - advised the Commission that they, along with the Consumers, had negotiated a settlement Stipulation, attached to this Order, that resolved pending issues and that proposed LPPFs for the period beginning July 1, 2008, and extending through June 30, 2011. Company witnesses Joensen, Reeping, and Robert Sloan explained various provisions of the Stipulation and responded to questions from the Commission. Attorney General witness Scott Norwood and Staff witnesses Thomas Lamm and Lawrence Thomas Oliver also testified and responded to questions from the Commission regarding the Stipulation's provisions. The Stipulation, together with the Application and all prefiled direct, supplemental and rebuttal testimonies were admitted to the record without cross-examination from any of the case participants, per their agreement.

The Stipulation provides, among other provisions, that:

(1) The current LPPF (\$0.02351 per kWh) established by our Order of May 15, 2008, will remain in effect until June 30, 2009;

(2) For residential customers and smaller commercial customers taking service under rate schedules R, C or G, the LPPF shall increase, beginning July 1, 2009, by the lesser of either 15% or the amount necessary to permit the Company full recovery of its purchased power costs. For ratemaking purposes, 100 MW (876,000 megawatt-hours) of power purchased to serve these customers will be priced at \$55 per MW or at the average actual cost of all purchased power, whichever is less, for the period July 1, 2009, through June 30, 2011. If the actual average cost of purchased power exceeds \$55 per MW, customers in these rate schedules will receive credits to reflect the difference in average actual price and 100 MW priced at \$55 per MW.

(3) For industrial or larger commercial customers taking service under rate schedules PP and PH, the LPPF shall increase, beginning July 1, 2009, to the level necessary to permit the Company full recovery of its purchased power costs, minus the lesser of either (a) 50% of the amount needed to reach such full recovery level, or (b) \$15 million. For these customers, the LPPF will be adjusted again, beginning January 1, 2010, to the level that permits full recovery of purchased power costs to serve these customers. Customers in these rate schedules are eligible to request energy efficiency services "beginning with detailed audits to determine the systems or processes with the greatest potential for energy savings"⁶ from an independent energy service company, with costs of such service, at up to \$10,000 per customer but not more than \$150,000 in aggregate, borne by Allegheny. The Company will not defer or seek any underrecovery of costs that may result from application of the foregoing LPPFs.

⁶ Stipulation, Paragraph 8 e.

(4) Allegheny shall procure power necessary to supply its customers during the period ending June 30, 2011, by means of a competitive bid process, and will seek bids from market participants to supply twelve, 50 MW, blocks of power for terms of various lengths, including but not limited to, 12, 13, and 25 months. On or before September 1, 2009, the Company will also prepare and file with the Commission a comprehensive integrated resource plan ("IRP") in which it commits to evaluate a full range of options to meet its ongoing supply obligations. Such options will include acquisition or construction of generation assets.

NOW THE COMMISSION, having considered the testimony, the pleadings of record, the Stipulation and the applicable laws and regulations, is of the opinion and finds that the Stipulation negotiated among and signed by the indicated participants, and offered by them for our consideration herein represents a fair and reasonable resolution of the issues before us in this case and is consistent with the laws and facts governing this matter. Accordingly, we will approve and adopt the Stipulation as part of this order.

As noted above, in 2000 we permitted Potomac Edison to divest its generating assets to an affiliated company, conditioned upon and subject to certain ratemaking agreements contained in the MOU approved and adopted in that case. Changes to Virginia law enacted in 2007 had the effect of terminating those ratemaking provisions, as we ruled in our July 18 Order.⁷ Terms of the Stipulation we approve herein will partially replace those ratemaking provisions, at least for those periods noted above. Allegheny is presently the only investor-owned Virginia electric utility with no generation assets of its own. It has been, and will continue for some time at least, to be completely dependent on purchases of power from the wholesale market to meet its customers' retail power requirements. Prices for power in the wholesale market are subject to the

⁷ The Attorney General has filed an appeal of this order, but as part of the Stipulation, will withdraw that appeal.

oversight of and regulation by the Federal Energy Regulation Commission ("FERC"), whose present policy is to allow the operation of regional wholesale markets (in Allegheny's case, the PJM wholesale market), rather than actual costs of power production, to determine such prices. By contrast, under Virginia law in effect prior to July 1, 1999, and beginning again on January 1, 2009, this Commission has determined and will determine retail power prices on a cost of production basis.

Both Attorney General Witness Norwood⁸ and Staff Witness Lamm⁹ called into question Allegheny's stated intention in its pre-filed testimony to meet 100% of the load forecasted for its Virginia service territory through short-term purchased power contracts.¹⁰ Throughout this proceeding we have raised questions regarding Allegheny's intention to depend totally on purchased power to serve Virginia load. A plan to serve Virginia customers in the future solely from short-term purchased power contracts does not give us a high level of confidence that Virginians will receive security of supply at reasonable rates that our citizens have a right to expect from a monopoly provider of electricity.

We are pleased that Allegheny has agreed in the Stipulation to "actively [consider] both shorter term and longer term generation supply options, including but not limited to generation acquisition and self build options..." and that Allegheny "will solicit longer term products and resources, including acquisition of existing generation capacity, through a separate RFP process" that will be submitted to Staff and Attorney General no later than January 31, 2009.¹¹

⁸ Exhibit 11, at 6-7, 15-17, 19, 23-25.

⁹ Exhibit 12, at 12-13.

¹⁰ Exhibit 5, Reeping Supplemental Testimony, Answers 4A, 5A, 6A, 7A.

¹¹ Stipulation Paragraph 8.b.

Virginia law requires the Commission to "disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs," while giving due regard to reliability of service, the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.¹² We expect the IRP that Allegheny will file in 2009 to examine rigorously all reasonable alternatives to meet its supply obligations, including, *inter alia*, wholesale purchases of varying term lengths, and production of "electricity generated from generation facilities that it may construct or purchase."¹³ The breadth, depth and thoroughness of the Company's analytical effort in its IRP to evaluate all such supply options, and combinations of such options, can and will be taken into account by the Commission when in future proceedings it considers its obligation, cited above, to permit recovery of purchased power costs only insofar as they have been minimized by "every reasonable effort" of the utility.

Accordingly, IT IS ORDERED THAT:

(1) The Stipulation agreed upon by the signing participants and presented by them for our consideration is hereby adopted and made a part of this Order.

(2) The LPPF implemented by our Order of May 15, 2008, shall remain in effect until June 30, 2009, and shall be adjusted thereafter as set forth in the Stipulation.

(3) On or before 45 calendar days following the close of business each month, the Company shall submit a report with supporting workpapers, to the Commission's Divisions of Energy Regulation and Public Utility Accounting, detailing the actual LPPF monthly and

¹² Virginia Code § 56-249.6 D 2. In this statute, "fuel costs" include the cost of purchased power.

¹³ See, Virginia Code § 56-598 "Contents of integrated resource plans."

cumulative over- and under-collection positions with respect to the purchased power costs approved herein.

(4) On or before April 30, 2009, Allegheny shall file its application with the Commission for proposed recovery of purchased power costs for service to be rendered for the 12-month period beginning July 1, 2009.

(5) This matter is continued for further orders of the Commission to allow Staff to conduct an accounting audit of the Company's purchase power costs and applicable credits, as well as the recovery position at the end of the audit period.

Commissioner Shannon participated in this matter.

Commissioner Dimitri did not participate in this matter.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Richard D. Gary, Esquire, and Noelle J. Coates, Esquire, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Jeffrey P. Trout, Esquire, Allegheny Power, 800 Cabin Hill Road, Greensburg, Pennsylvania 15601; William J. Sterner, President, System Local No. 102, AFL-CIO, 333 State Street, Charleroi, Pennsylvania 15022; Jeannie A. Adams, Esquire, Hancock, Daniel, Johnson & Nagle P.C., 4701 Cox Road, Suite 400, P.O. Box 72050, Richmond, Virginia 23255; Jeffrey A. Schwarz, Esquire, and Scott H. Strauss, Esquire, Spiegel & McDiarmid LLP, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Division of Energy Regulation.

APPLICATION OF

THE POTOMAC EDISON COMPANY

D/B/A ALLEGHENY POWER

For an Increase in its Electric

Rates Pursuant to Virginia Code

Sections 56-249.6 and 56-582

And, Alternatively, Request to Modify

Memorandum of Understanding and Order in

Case No. PUE-2000-00280

STIPULATION

WHEREAS the MOU has protected Potomac Edison's consumers since 2000 by limiting significantly the potential rate increases resulting from price increases in the wholesale generation market; and

WHEREAS the Commission has ruled that legislation enacted in 2007 by the Virginia General Assembly ended the ratemaking provisions of the MOU as of December 31, 2008; and

WHEREAS Potomac Edison is now the only investor-owned electric distribution utility in Virginia that does not own generation facilities, and is currently therefore wholly dependent on market-supplied purchased power to serve its retail customers; and

WHEREAS the Commonwealth of Virginia, through the 2007 legislation noted above, has abandoned its transition to deregulation of generation for electric utilities and enacted laws that support the expansion of Virginia utilities' infrastructure, including construction of new generation facilities, to provide a reliable and adequate supply of electricity at reasonable cost to Virginia's energy consumers in the future; and

WHEREAS Virginia Code § 56-249.6 permits recovery of fuel and purchased power costs that (i) are appropriate for the period being considered, and (ii) unless good cause is determined, reflect that the utility has made every reasonable effort to minimize costs to consumers; and

WHEREAS Virginia Code § 56-599 requires Potomac Edison to submit by September 1, 2009, for Commission approval, its initial integrated resource plan ("IRP"), which must include the Company's plans for meeting its load requirements, including a systematic evaluation of all supply-side and demand-side resource options; and

WHEREAS the industrial customers set forth on Attachment A ("Industrial Customers"); the Office of the Virginia Attorney General, Division of Consumer Counsel ("Consumer Counsel"); and the Staff of the State Corporation Commission ("Staff") (collectively with Potomac Edison, the "Stipulating Parties"), are participants in the proceeding on the Application.

NOW THEREFORE, this Stipulation represents the agreement between the Stipulating Parties, by counsel, as to the Application as well as to other matters relating to prior and future rates as described herein:

1. The Stipulating Parties agree that, except as provided in Paragraph 9 below, the Levelized Purchased Power Factor ("Factor") for the period July 1, 2008-June 30, 2009, shall remain unchanged from the temporary rate set by the Commission in its Order dated May 15, 2008.

2. For residential customers served under tariff Rate Schedule R, and for commercial and other customers served under tariff Rate Schedules C and G, the Stipulating Parties agree that:

- a) Except as provided in Paragraph 9 below, the Factor for the period July 1, 2009 through June 30, 2010, shall be increased by the lesser of the amount that would increase total rates for those Schedules by 15% or such amount as would result in full recovery of Potomac Edison's purchased power costs for serving the customers under those Schedules during the period. The purchased power costs for serving such customers shall include the pricing set forth in Paragraph 2(b) hereof.
- b) For residential customers served under tariff Rate Schedule R, and for commercial and other customers served under tariff Rate Schedules C and G, Potomac Edison shall, for ratemaking purposes, be deemed to have purchased a 100 MW block of power at \$55 per megawatt-hour (both-as measured at the generator-level) or the average actual cost at which the 100 MW is purchased, whichever is less. The 100 MW block shall be at a 100% capacity factor, equivalent to 876,000 megawatt-hours per year. This pricing of the 100 MW block shall apply for the period July 1, 2009 through June 30, 2011, and Potomac Edison shall not seek to recover any revenue under-collection that may result from pricing the 100 MW block at \$55 per megawatt-hour. If the average actual cost of purchased power per megawatt-hour procured pursuant to Paragraph 8 (b) below is greater than \$55 per megawatt-hour, the difference between the average actual cost of purchased power per megawatt-hour procured pursuant to Paragraph 8 (b) below and the 100 MW block cost per megawatt-hour will be credited pro rata to Rate Schedules R, C and G.

3. Until July 1, 2011, existing customer accounts served under tariff Schedules PH and PP and new customer accounts eligible to receive service under tariff Schedules PH and PP shall not be allowed to receive service under tariff Schedule G unless the customer's operation

makes tariff Schedule G a more economically viable option for the customer. The evaluation of whether tariff Schedule G is a more economically viable option shall be made by comparing billings for the applicable tariff schedules, exclusive of the Factor.

4. For all customers not included in Paragraph 2, the Stipulating Parties agree that, except as provided in Paragraph 9 below, the Factor for the period July 1, 2009-December 31, 2009 shall be increased to a level that would recover all of Potomac Edison's purchased power costs, minus the lesser of:

- a) Fifty percent (50%) of the increase required to reach full recovery of the costs of providing purchased power for those customers; or
- b) Fifteen million dollars (\$15 million).

5. Effective July 1, 2010, the Factor for all customers not included in Paragraph 2 will be adjusted to reflect any over- or under-recovery of revenue against the allowed rates for the preceding twelve months. Actual results available at the time of the filing of each revision of the Factor will be used together with estimates for the remaining months of the period, with true-up of those estimates to actual results in the immediately succeeding revision of the Factor.

6. The Company agrees that it shall not seek to recover in any Commission proceeding or in any other forum all, or any part of, any revenue under-collection that may result from the charging of the Factors set forth in accordance with Paragraphs 1-4 and 9. No other Stipulating Party shall seek refund of, or reduction to, the Factors and rates collected or agreed to be collected through this Stipulation, or any part thereof, from Potomac Edison or any of its affiliates in any Commission proceeding or in any other forum; nor shall any Stipulating Party argue, in any subsequent proceeding, that Potomac Edison's cost of providing generation service should be based on the provisions of Paragraph 2(b) beyond June 30, 2011 or that Potomac Edison violated the terms of the MOU prior to the date of this Stipulation..

7. The Stipulating Parties agree, except as modified by Paragraph 2(b), that the Factors as set for the period beginning July 1, 2010 and thereafter for customers served under tariff Rate Schedules R, C and G, and as set for the period beginning January 1, 2010 and thereafter for all other customers, shall be at a level that allows full recovery of Potomac Edison's prudently-incurred purchased power costs in accordance with Paragraphs 8(b) and (d) below and Va. Code § 56-249.6.

8. The Stipulating Parties further agree as follows:

a. The Commission ruled on July 18, 2008 that the continuing ratemaking provisions of the MOU, adopted by the Commission in Case No. PUE-2000-00280, expire on December 31, 2008. No Stipulating Party will challenge that ruling or, if such Party has already filed such a challenge, the challenge shall be withdrawn upon the finality of the Commission approval of the Stipulation and the absence of an appeal of the Commission Order approving the Stipulation. Nor shall any Stipulating Party argue in any future proceeding that the Commission should rescind such Order.

b. Potomac Edison shall continue to procure power through competitive processes while actively considering both shorter term and longer term generation supply options, including but not limited to generation acquisition and self build options. Initially, the Company shall implement a generation procurement schedule to acquire full requirements service for a 25-month term from June 1, 2009 through June 30, 2011. The full requirements Request-For-Proposal ("RFP") competitive process will be similar to what Potomac Edison used to procure power for its Virginia jurisdiction in 2007 and 2008. Potomac Edison will conduct a single twenty-five month RFP for all customer classes including the 100 MW block to fulfill the obligation under Paragraph 2(b). The twenty-five month procurement will request pricing for twelve 50 MW blocks for various

terms, including, but not limited to 25 months, 13 months and 12 months. Potomac Edison shall communicate those processes in detail concurrent with the issuance of the competitive request for proposals to the Stipulating Parties. Consistent with past procurements, Staff and Consumer Counsel will have the opportunity to review all Company communications with bidders, attend the bidding, and be provided copies of all bids received, on a confidential basis. One business day after bids are received under the RFP competitive process, winning bids will be submitted to the Staff and Consumer Counsel for acknowledgment that Potomac Edison complied with the procurement process set forth in this Paragraph with a request for such acknowledgment within 3 business days. Should the Staff or Consumer Counsel not provide such acknowledgment within 3 business days, their acknowledgment shall be deemed granted. Following this initial procurement, Potomac Edison will continue to procure power in the same manner unless and until modified as a result of the additional RFP process described immediately below or as a result of a Commission-approved IRP.

In addition, Potomac Edison will solicit longer term products and resources, including acquisition of existing generation capacity, through a separate RFP process. This RFP process will be submitted to Staff and Consumer Counsel no later than January 31, 2009, and Staff and Consumer Counsel will have 30 days to review and provide comments to the Company on the RFP process. Once the bids are received, the Company will provide a report of all the bid results and subsequent analysis to the Stipulating Parties under applicable protective agreement terms. All such bids will be reviewed under the IRP process.

c. ~~b~~. The megawatt-hours and the resulting prices from the awarded bids will be allocated among all customer classes on a pro-rata share basis.

^d
To support further determination of future resource needs and optimal supply options, including possible acquisition of generating assets and self build options, Potomac Edison will file its comprehensive IRP required by Va. Code § 56-599 and in conformance with Va. Code §§ 56-598 and 56-599, as early as June 30, 2009 but no later than September 1, 2009 for procurement periods beginning July 1, 2011. The Company's continued reliance on purchased power for meeting all of its load beyond June 30, 2011 is subject to the Commission's findings required by Va. Code §§ 56-249.6 and 56-599.

^e
Through the Watt Watchers program, Potomac Edison will arrange for customers served under tariff Rate Schedule PP and PH in the Company's Virginia service territory to receive, upon request, services up to \$10,000 per customer, as set forth on Schedule A, with a cost of no more than \$150,000 in the aggregate across all such customers, beginning with detailed audits to determine the systems or processes with the greatest potential for energy savings, with such costs being expensed in the year incurred. The energy service company/ies ("ESCO") providing the audits will be competitively selected by Potomac Edison. The ESCO will prepare an audit report, including the proposed measures, estimated energy savings, project costs, and payback, and will offer tiered services to complete the project, ranging from financing to a turn-key installation.

^f
All Stipulating Parties agree not to file a notice of appeal of the Commission's Final Order in this proceeding.

9. Potomac Edison agrees that its transmission and distribution rates will not increase until July 1, 2010, except that the Company will have the opportunity to request a surcharge to recover the Virginia jurisdictional share of any third-party transmission charges imposed on Potomac Edison, including (but not limited to) PJM transmission enhancement charges under Schedule 12 of the PJM Open Access Transmission Tariff. If Potomac Edison's

transmission and/or distribution rates are reduced by the Commission from current levels for any period between January 1, 2009 and June 30, 2010, for reasons other than disallowance of costs found to be imprudent, the purchased power cost recovery foregone by Potomac Edison pursuant to (depending on the period involved) Paragraphs 1, 2, or 4 above will be decreased by the corresponding amount, and therefore the Company's purchased power cost recovery will be increased by that amount. In no case, however, will the operation of this Paragraph serve to permit Potomac Edison to recover more than one hundred percent (100%) of the Virginia retail jurisdictional share its purchased power costs for any period.

10. The Stipulating Parties agree to support this Stipulation before the Commission and take all reasonable action to assist in its adoption by the Commission.

11. The Application, all pre-filed direct and supplemental testimonies and exhibits, and the Staff Report shall be made a part of the record without cross-examination.

12. The Stipulating Parties agree that this Stipulation represents a compromise for the purposes of settlement in this case only and shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future fuel factor or general rate case. None of the parties to this Stipulation necessarily agree or disagree with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this Stipulation other than as specified herein, except that the Stipulating Parties agree that the resolution of the issues herein, taken as a whole, and the disposition of all other matters set forth in the Stipulation are in the public interest. This Stipulation is conditioned on and subject to acceptance by the Commission and is non-severable and of no force or effect and may not be used for any other purpose unless accepted in its entirety by the Commission, except that this paragraph shall remain in effect in any event.

Respectfully submitted this 18 day of November, 2008.

THE POTOMAC EDISON COMPANY
d/b/a ALLEGHENY POWER

By Kathy L. Pat
Counsel

OFFICE OF THE ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL

By [Signature]
Counsel

STAFF OF THE STATE CORPORATION
COMMISSION

By [Signature]
Counsel

INDUSTRIAL CUSTOMERS

By [Signature]
Counsel

Dated: November 18, 2008

Attachment A

Frederick County Industrial Development Authority

Berryville Graphics, Inc.
Dupont
Monoflo International, Inc.
New World Pasta
O'Sullivan Films, Inc.
Pactiv
QuebecorWorld
R. R. Donnelley
Rubbermaid Commercial Products
Southeastern Container Corporation
The Shockey Companies, Inc.
Toray Plastics (America), Inc.
Trex Company
Valley Health Systems
H.P. Hood, Inc .